

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS SLOANE, individually and on	)	
behalf of all persons similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civ. Act. No. 2:15-cv-01208-NBF
	)	
GULF INTERSTATE FIELD SERVICES,	)	
INC.,	)	
	)	
Defendant.	)	
	)	

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**DEFENDANT GULF INTERSTATE FIELD SERVICES, INC.’S  
MOTION TO DISMISS PLAINTIFF’S COMPLAINT**

**COMES NOW** Defendant Gulf Interstate Field Services, Inc. (“**GIFS**”), by and through undersigned counsel, and files this Motion to Dismiss Plaintiff’s Collective Action Complaint (“Complaint”) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and respectfully shows the Court as follows:

1. Count I and II must be dismissed because Plaintiff is a highly compensated, FLSA and PMWA exempt employee who is not entitled to receive a payment for overtime in addition to his salary;
2. Count I and II must be dismissed because Plaintiff has failed to plead sufficient facts to state a plausible claim that he is misclassified as exempt from the overtime requirements of the FLSA and PMWA;
3. Plaintiff must be disqualified as a class representative for his Rule 23 PMWA claim (Count II) because his extensive criminal history renders him inadequate to serve as a representative party, and atypical of the putative class members;

4. Plaintiff must be disqualified as a representative for his FLSA Section 216(b) collective action claim (Count I) because his extensive criminal history renders him not similarly situated to the putative class members, and he is unfit to serve as a representative party;

5. The class and collective action elements of Plaintiff's FLSA (Count I) and PMWA (Count II) claims must be dismissed for lack of a suitable class and collective representative; and

6. Plaintiff's unjust enrichment claim (Count III) must be dismissed because it is based on the same facts and seeks the same relief as Plaintiff's FLSA claim, and is therefore preempted.

This Motion is made based on the Motion, the Memorandum of Law, the accompanying exhibits submitted herewith, the pleadings and papers on file herein, documents from within the public record of which the Court may take judicial notice, and any oral argument the Court may allow. For the Court's convenience, and pursuant to Rule II(K) of the Honorable Judge Nora Barry Fischer's Practices and Procedures, a Proposed Order has been submitted herewith.

**WHEREFORE**, GIFS requests that this Honorable Court grant the relief requested in paragraphs one through six above.

Respectfully submitted this 5th day of November, 2015.

**SCHNADER HARRISON SEGAL & LEWIS  
LLP**

s/ Keith E. Whitson

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**CHAMBERLAIN, HRDLICKA, WHITE,  
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*s/ Annette A. Idalski*

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*Counsel for Defendant Gulf Interstate Field  
Services, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on this day a copy of the foregoing **Defendant Gulf Interstate Field Services, Inc.'s Motion to Dismiss Plaintiff's Complaint** was filed electronically with the Court's CM/ECF system which will send notifications to all parties and/or counsel of record, including:

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Respectfully submitted this 5th day of November, 2015

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